

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA, §
§
Plaintiff, §
§
v. § CIVIL NO. 4:21-cv-2589
§
MARK ANTHONY FULLEN and STATE §
FARM MUTUAL AUTOMOBILE §
INSURANCE COMPANY, §
§
Defendants. §
§

COMPLAINT

Defendant, United States of America (“United States”), through the undersigned Assistant United States Attorney, brings this Complaint against Defendants, Mark Anthony Fullen (Fullen) and State Farm Mutual Automobile Insurance Company (State Farm), for violations of federal and Texas law as further alleged herein.

PARTIES

1.

The United States brings this action in its sovereign capacity pursuant to 28 U.S.C. § 1345.

2.

Fullen is a resident of the State of Texas domiciled at 19701 Cearley Street, Cleveland, Texas 77328. Fullen may be served at 19701 Cearley Street, Cleveland, Texas 77328 and/or his mailing address at 19681 Cearley Street, Cleveland, Texas 77328.

3.

State Farm is licensed to do business in the State of Texas. State Farm is licensed by the Texas Department of Insurance to issue certain classifications of insurance, including but not limited to motor vehicle liability insurance, within the State of Texas. State Farm may be served through its registered agent, Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218.

JURISDICTION and VENUE

4.

This Court has jurisdiction pursuant to 28 U.S.C. § 1345.

5.

Venue lies with this Court pursuant to 28 U.S.C. § 1391(b) as, inter alia, the subject motor vehicle accident and related damages occurred near Plantersville, Texas, which is within the Southern District of Texas.

FACTS

6.

On January 20, 2021, Fullen was operating a 2002 Ford F-150 Pick Up and towing a utility trailer.

7.

On January 20, 2021, Fullen was insured by State Farm via Policy Number 275 9752-L05-53G 001.

8.

On January 20, 2021, Fullen was traveling west bound on SH-105 near Plantersville, Texas. Fullen was driving a Ford F-150 and towing a utility trailer. Mr. Nicholas Dale Thurman was a

passenger in Fullen's Ford F-150; and was also a witness to the accident. Dennis John O'Brien Jr. ("O'Brien") was driving a 2015 Chevrolet Impala and was also travelling west bound on SH-105. Fullen was driving behind O'Brien. As O'Brien was reducing his speed to turn right onto a private driveway, Fullen failed to safely control his speed and took evasive action to avoid colliding with O'Brien. As Fullen was taking evasive action toward the right turn lane of SH-105, the trailer struck O'Brien in the west bound lane of SH-105. Fullen's vehicle and trailer jackknifed as they were crossing a private driveway and left the roadway into the west bound grass ditch of SH-105 where they came to a final resting place, facing north. O'Brien's vehicle also left SH-105 and crossed the private driveway and left the roadway into the west bound grass ditch of SH-105 where it came to its final rest facing west. Fullen was found at fault by the investigating officer and cited for failure to control speed.

9.

The 2015 Chevrolet Impala, an official use vehicle assigned to the Federal Bureau of Investigation, is property of the United States of America and sustained damages because of the motor vehicle accident which occurred on January 20, 2021.

10.

According to the report prepared by the Texas Department of Public Safety, Fullen took evasive action to avoid striking O'Brien's vehicle. Further, Fullen failed to safely control his vehicle's speed, causing the side of his vehicle to strike the passenger side of O'Brien's vehicle.

11.

At the scene of the accident, Fullen admitted fault and responsibility to O'Brien. Specifically, Fullen stated that he was trailing O'Brien's vehicle too closely to slow down. Further, Fullen stated that he attempted to avoid colliding with O'Brien's vehicle by passing to the right at

a higher rate of speed; however, in doing so, Fullen lost control of his trailer and subsequently struck O'Brien's vehicle.

12.

The accident was promptly reported to State Farm. Amicable demand has been made by the United States to State Farm, to no avail, prior to the filing of this Complaint.

CAUSES OF ACTION

Count 1 – Common Law Negligence

13.

The United States incorporates by reference the allegations contained in Paragraphs 1-12.

14.

At the time of the subject motor vehicle accident, Fullen was negligently operating his vehicle. Fullen's acts of negligence, which caused the subject motor vehicle accident, include but are not limited to, the following:

- a. Failing to control speed;
- b. Failing to maintain a proper lookout;
- c. Failing to observe and obey traffic signals; and
- d. Failing to operate his motor vehicle in a reasonable manner.

15.

The motor vehicle accident on January 20, 2021 was caused by Fullen's negligent operation of his motor vehicle.

16.

Fullen's negligence caused damage to the vehicle operated by O'Brien, a 2015 Chevrolet Impala, which is the property of the United States.

17.

By virtue of its contract of insurance, pursuant to the terms and conditions of same, State Farm is liable for the negligent acts of Fullen and, as a result, for the damage caused to the property of the United States.

18.

The United States is entitled to compensation arising from the damage occasioned to its property.

Count 2 – State Law Negligence arising under
Texas Civil Practice & Remedies Code § 33.013

19.

The United States incorporates by reference the allegations contained in Paragraphs 1-18.

20.

Pursuant to Texas Civil Practice & Remedies Code § 33.013, Fullen is obliged to repair the damage that he caused to the property of the United States.

21.

By virtue of its insurance contract with Fullen, pursuant to the terms and conditions of same, State Farm is a joint and solidary obligor and is, thus, obliged to make the United States whole for the damage caused to its property by Fullen.

WHEREFORE, the United States prays that the Court enters judgment in its favor as follows:

- a. Finding Fullen and State Farm jointly and severally liable for damage to the property of the United States in an amount not less than \$6,075.75;
- b. Awarding the United States damages in the amount of not less than \$6,075.75 plus an award of prejudgment and post judgment interest and all costs allowed by law; and
- c. Ordering any other relief the Court deems just and reasonable as the circumstances may require.

Respectfully submitted,

JENNIFER B. LOWERY
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